

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 21 of 1999

Jabalpur, this the 18th day of December, 2003

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

Shri S.R. Roy Choudhury,  
S/o. Late Shri D.N. Roy Choudhury,  
Retired D. Accounts Officer-2,  
Resident of Kumharpara, Jagdalpur,  
Bastar (M.P.). ... Applicant

(By Advocate - Shri Abhay Gupta on behalf of Shri M.R. Chandra)

V e r s u s

1. Union of India, represented by Comptroller and Auditor General of India, Bahadur Shah Zafar Marg, New Delhi.
2. Accountant General (A&E)-I, M.P., Madhya Pradesh, Sahkar Bhawan, T.T. Nagar, Bhopal.
3. Dy. Accountant General (A&E)-I, M.P., Sahkar Bhawan, T.T. Nagar, Bhopal.
4. Secretary, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, (Government of India), New Delhi. ... Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C. Sharma)

O R D E R (O-ral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main reliefs :-

"(1) That the respondents may be directed to implement honestly the decision of the Hon'ble Central Administrative Tribunal, Hyderabad dated 22.05.1990 and Comptroller and Auditor General's Orders by taking into account his service in Dandakaranya Project and Accountant General's organisation, his seniority be fixed at Sl. No. 56 in the gradation list of permanent Divisional Accountants and accordingly he should be granted promotion to the post of Divisional Accounts.

*M.P. Singh*

Officer-II w.e.f. 02.04.1987 and further promotion to the post of Divisional Accounts Officer Gr. I from the date his juniors were promoted.

(2) That the applicant has retired from service since 31.05.1997 as such he may be granted promotion to the post of Divisional Accounts Officer-II and Divisional Accounts Officer-I as per his refixed seniority and he may be paid all consequential service benefits (FR 22 C) accrued thereon by enhancing his pension as well as by paying other service benefits revised and reviewed.

(3) That the respondents may be directed to pursue the series of representations and grant him all other benefits for which he is entitled in the interest of justice."

2. The brief facts of the case as stated by the applicant are that he joined the service as Divisional Accountant in Dandakaranya Development Authority, Jagdalpur. He was rendered surplus from Dandakaranya Project, P.O. Kondagaon, Bastar, consequent to winding up of the Dandakaranya Project and was re-deployed as Divisional Accountant in Accountant General's Establishment vide order dated 23rd January, 1987. According to the applicant a Government servant who has been declared permanent does not loose his permanent status on any eventuality during his service career such as on being declared surplus or on changing the Department and joining a new organisation. The person will carry his permanent status wherever he goes and his services in the previous department will be counted for all purposes i.e. for promotion, for fixing seniority etc. To support his claim he has relied upon the judgment of Hyderabad Bench of the Tribunal in OA No. 981/1989 decided on 22.06.1990. He has also stated that when the question of promotion arose, his entire total service in the two Organisations should have been taken into account for the purpose of fixation of his seniority and consequent promotion. The applicant has retired from service with effect from 31.05.1997. Due to subsequent amendment in the

of the applicant gradation list, the earlier promotion order was cancelled vide order dated 04.03.1998, which is in violation of the judgment of the Hyderabad Bench of the Tribunal. Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

3. The respondents in their reply have stated that the applicant was promoted as Divisional Accounts Officer, Grade-II with effect from 04.05.1989. As per the provisions contained in para 11.1 of the revised scheme prescribed under Government of India, Department Per. & Trg. O.M. dated 01.04.1989 (Annexure R-3), the past service rendered prior to redeployment should not be counted towards seniority in the new organisation/new post, which a surplus employee joins after he is redeployed. In view of these order of Government of India, the seniority of the applicant cannot be protected in the office of the answering respondents. In order to rectify the mistake, the respondents refixed the seniority of the applicant and cancelled the promotion order dated 21.04.1989 promoting the applicant on the post of Divisional Accounts Officer, Grade-II. The applicant's case for his promotion was considered as per his correct seniority and he was promoted on the post of Divisional Accounts Officer, Grade-II, vide order dated 03.04.1998. The respondent No. 1 has also decided not to recover any amount on account of pay and allowances paid him due to erroneous promotion from the applicant. According to the respondents the order dated 22.06.1990 of the Hyderabad Bench of the Tribunal, was the subject matter of a case finally decided by the Hon'ble Supreme Court of India. The Hon'ble Supreme Court has categorically held that such service does not count for determining seniority of the redeployed official in the recipient organisation.

*[Handwritten signature]*

This observation was made by the Hon'ble Supreme Court in the case of Balbir Sardana Vs. Union of India and others in Civil Appeal No. 628 of 1988. It has also been stated by the respondents that the seniority of the applicant in the Divisional Accountant cadre on his redeployment post, was refixed in accordance with the rules in this regard and he was placed as the last officiating Divisional Accountant as on 11.02.1987 vide office order dated 04.03.1998 (Annexure A-3). However on completion of 5 years of regular service in the cadre of Divisional Accountant, the applicant was promoted as Divisional Accounts Officer-II and was placed at the appropriate position in the cadre of Divisional Accounts Officer-II vide Annexure A-4. In view of these facts the applicant has no case and the application filed by him is not tenable.

4. Heard the learned counsel for the parties, and carefully considered the submissions made by both the parties and the material available on record.

5. We find that the applicant had earlier joined the service in Dandakaranya Project. He was rendered surplus and was redeployed in the office of the Accountant General, Madhya Pradesh. He joined on 11.02.1987. His seniority was erroneously fixed by the respondents in the post of Divisional Accountant after taking into consideration the services rendered by him in the Dandakaranya Project. As per the instructions issued by the Ministry of Home Affairs in their OM dated 22.12.1959 read with OM dated 06.02.1969, for redeployment of surplus staff, ~~at present~~ no benefit of past service is given for the purpose of fixing the seniority, and the respondents at a later stage detected the mistake committed by them in fixing the seniority of the applicant by taking into consideration the service rendered

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by him in Dandakaranya Project. They have carefully rectified the mistake and fixed the seniority of the applicant in the grade of Divisional Accountant as per rules and promoted him to the next higher grade in accordance with the rules vide order dated 03.04.1998.

6. In this regard the Hon'ble Supreme Court vide its decision dated 17th October, 2003 in Civil Appeal No. 4449/1997 in the case of Superintending Engineer and others Vs. A. Sankariah, reported in AIR 2003 SC 4698, held that "respondent-employee appointed as Junior Engineer in Dandakanya Development Authority in pay scale of Rs. 425-700/- Subsequently, he was declared surplus in said project-Subsequently a Scheme for re-employment of such surplus staff was formulated by Government-employee re-deployed under said Scheme was to be treated as fresh entrants in new office for purpose of seniority and seniority based matters in that office - Employee re-deployed as Junior Engineer in CPWD on 19.08.1988 - Thereafter Government by order dated 27.03.1991 decided to place Junior Engineers in CPWD in higher pay scale on their completion of 5 years' service in entry grade pay scale of Rs. 1400-40-1800-E8-50-2300 (Pre-revised pay scale of Rs. 425-15-500-E8-15-500-20-700) - Respondent being fresh entrant would be entitled to benefit of said order on completion of 5 years of service in CPWD from date of his joining CPWD - His past service could not be counted for extending benefit of said order."

7. From the above facts it is clear that the applicant was re-deployed in the office of Accountant General with a view to mitigate the hardship caused to him by his retrenchment from service in Dandakanya Development



Authority Project. It was to protect his retrenchment from service. As per the terms of the policy and the letter of appointment, his re-deployment in the office of Accountant General was to be treated as a fresh employment. His past service rendered in Dandakanya Development Authority could not be counted for extending the benefit of fixation of seniority.

8. For the reasons recorded above the Original Application is without any merit and the same is accordingly dismissed. No costs.

*G. Shanthappa*  
(G. Shanthappa)  
Judicial Member

*M. P. Singh*  
(M. P. Singh)  
Vice Chairman

"SA" पूर्णांक सं. ३०८८ तिथि २००३

- (1) श. चंद्रा, एडव्हार्ड, काउन्सल
- (2) श. शशी काउन्सल
- (3) श. शशी काउन्सल
- (4) श. शशी काउन्सल

Mr. Chandra, Adv.  
SC Sharma, Adv.

*Chandra*  
2003

Issued  
on 20/12/03  
BS